

PART 917—SPECIAL CONTRACTING METHODS

Authority: 42 U.S.C. 7101 and 50 U.S.C. 2401

Source: 49 FR 11974, Mar. 28, 1984, unless otherwise noted.

Subpart 917.6—Management and Operating Contracts

917.600 Scope of subpart.

~~(a) This subpart implements 48 CFR subpart~~ FAR 17.67, Management and Operating Contracts. Departmental policies, procedures, provisions, and clauses ~~to be used in the award for awarding and administration of~~ administering management and operating contracts ~~that either—whether they implement or supplement the Federal Acquisition Regulation and parts 901 through 952 of this chapter—are contained~~ found in part 970.

~~The requirements of~~ (b) This subpart applies to any all Department of Energy management and operating ~~contract~~ contracts.

917.602 Policy.

~~The~~ (a) The Secretary must authorize any use of a management and operating contract ~~must be authorized by the Secretary.~~

~~It is the policy of~~ (b) The Department of Energy Energy's policy is to provide for full and open competition ~~in the award of~~ when awarding management and operating contracts.

(c) A management and operating contract may be extended at the completion end of its term without ~~providing for~~ full and open competition only when ~~such extension is justified under one of the~~ statutory authorities identified authority listed in FAR 6.302-103 and only when ~~authorized by the Secretary~~ approves the extension.

917.603 Identifying management and operating contracts.

A management and operating contract is characterized both by its purpose and by the special relationship it creates between Government and contractor. The following criteria can generally be applied in identifying management and operating contracts:

(a) Government-owned or -controlled facilities must be utilized; for instance-

(1) In the interest of national defense or mobilization readiness;

(2) To perform the agency's mission adequately; or

(3) Because private enterprise is unable or unwilling to use its own facilities for the work.

(b) Because of the nature of the work, or because it is to be performed in Government facilities, the Government must maintain a special, close relationship with the contractor and the contractor's personnel in various important areas (e.g., safety, security, cost control, site conditions).

(c) The conduct of the work is wholly or at least substantially separate from the contractor's other business, if any.

(d) The work is closely related to the agency's mission and is of a long-term or continuing nature, and there is a need-

(1) To ensure its continuity; and

(2) For special protection covering the orderly transition of personnel and work in the event of a change in contractors.

Subpart 917.70— - Cost Participation

Source: 61 FR 41706, Aug. 9, 1996, unless otherwise noted.

917.7000 Scope of subpart.

(a) This subpart ~~sets forth the DOE~~ describes DOE's policy on cost participation ~~by for~~ organizations performing research, development, and/or demonstration projects under DOE prime contracts. ~~This subpart~~ It does not ~~cover efforts and~~ apply to work or projects performed for DOE by other Federal agencies.

(b) "Cost participation" is a ~~generic~~ general term ~~denoting~~ meaning any situation ~~wherein~~ in which the Government does not fully reimburse the performer for all allowable costs ~~necessary~~ needed to accomplish the project ~~or effort under the contract~~. The term ~~encompasses~~. It includes cost sharing, cost matching, cost ~~limitation~~ limitations (direct or indirect), ~~participation-in-kind~~ contributions, and similar ~~concepts~~ arrangements.

917.7001 Policy.

(a) When DOE ~~supports performer~~ funds research, development, and/or demonstration efforts, ~~where~~ with the ~~principal purpose is~~ ultimate goal of eventual private-sector commercialization and utilization of the technologies by the private sector, ~~—~~ and when ~~there are~~ reasonable expectations that DOE reasonably expects the performer ~~will to~~ receive ~~present~~ current or future economic benefits beyond the ~~instant contract as a result of performance of the effort~~, it is

~~—DOE policy is to obtain~~require cost participation. DOE may provide full funding ~~may be provided for early phases of stage~~ development programs ~~when the technological problems are still great~~technical challenges remain significant.

~~(a)~~

~~In making the determination to obtain~~(b) When deciding whether to require cost participation, and ~~evaluating present~~when assessing current and future economic benefits to the performer, DOE will consider ~~the~~ technical feasibility, projected economic viability, societal and political acceptability of commercial application, ~~as well as possible effects~~and the potential impact of other DOE-supported projects in competing technologies.

~~The propriety, manner~~(c) DOE will determine the appropriateness, method, and amount of cost participation ~~must be decided~~ on a case-by-case basis.

(d) Cost participation is required for demonstration projects unless exempted by the Under Secretary. ~~grants an exemption. For this subpart, “demonstration projects, pursuant to this subpart,”~~ include demonstrations of technological advances ~~and,~~ field demonstrations of new methods and procedures, and demonstrations of prototype commercial applications for ~~the exploration, development, production, transportation, conversion, and utilization of~~exploring, developing, producing, transporting, converting, and using energy resources.

Subpart 917.72— Program Opportunity Notices for Commercial Demonstrations

Source: 61 FR 41706, Aug. 9, 1996, unless otherwise noted.

917.7200 Scope of subpart.

(a) This subpart describes DOE’s policy for the use of ~~discusses the~~ using a program opportunity notice ~~solicitation approach to accelerate the demonstration of the~~ demonstrations showing technical feasibility and commercial application of all potentially ~~beneficial nonnuclear~~ potential for non-nuclear energy sources and ~~utilization~~ technologies.

(b) This subpart applies to demonstrations performed by individuals, educational institutions, commercial or industrial organizations, or other private entities, public entities, including and State and/or local governments, but. It does not apply to other Federal agencies. For purposes of this subpart, commercial Demonstration projects include demonstrations of technological advances, field demonstrations of new methods and procedures, and ~~demonstration~~ demonstrations of prototype commercial applications for ~~the exploration, development, production, transportation, conversion~~ exploring, developing, producing, transporting, converting, and utilization of using non-nuclear energy resources.

917.7201 Policy.

917.7201-1 General.

~~It is DOE's intent to encourage the submission of~~(a) DOE seeks proposals ~~to~~that accelerate ~~the demonstration~~demonstrations of the technical, operational, economic, and commercial feasibility—and environmental acceptability—of ~~particular~~specific energy technologies, systems, subsystems, and components. ~~Program opportunity notices~~DOE will be used to ~~provide~~issue program opportunity notices to share information ~~concerning~~on the scientific and technological areas ~~encompassed by DOE's~~within DOE's programs. ~~DOE shall,~~From time to time, DOE will issue ~~program opportunity~~these notices for ~~proposals for~~demonstrations ~~of~~involving various forms of non-nuclear energy and energy technology utilizationuse.

~~(a)~~(b) Each program opportunity notice ~~shall as~~must, at a minimum, describe: the demonstration's goal, ~~the goal of the intended demonstration effort;~~ the timeaward schedule ~~for award;~~, evaluation criteria, program policy factors, the amountlevel of cost detail required, and proposal submission ~~information~~instructions. Program policy factors are

~~(b)~~ ~~those factors which~~ considerations that, while not ~~appropriate~~indicators of a ~~proposal's~~proposal's individual merit (i.e., such as technical excellence, proposer's ability, capability, or cost, etc.), are ~~relevant and essential to the process of choosing~~ which of the proposals received will, taken together, in selecting proposals that best achieve ~~the~~support program objectives: when considered as a group. All such factors ~~shall~~must be predetermined and specifiedincluded in the notice so ~~as to notify~~proposers understand that factors ~~which are essentially beyond~~outside their control ~~will affect~~may influence the selection process.

Subpart 917.73— Program Research and Development Announcements

Source: 61 FR 41707, Aug. 9, 1996, unless otherwise noted.

917.7300 Scope of subpart.

(a) This subpart ~~discusses the~~describes DOE's policy for ~~the use of~~using a program research and development announcement (PRDA) ~~solicitation approach to obtain~~to solicit and select

proposals from the private sector for ~~the conduct of~~ research, development, and related activities in the energy field.

917.7301 Policy.

917.7301-1 General.

~~(a) DOE uses PRDAs shall be used to provide inform potential proposers with information concerning DOE's interest in entering into arrangements for of areas where DOE is interested in research, development, and related projects in specified areas of interest. It is DOE's intent to solicit the submission of work. DOE seeks ideas which will serve as a basis for that can support research, development, and related activities in the energy field. It is DOE's desire to encourage the involvement of DOE also encourages participation by small business concerns businesses, small disadvantage business concerns disadvantaged businesses, and women-owned small business concerns in research and development undertaken pursuant to PRDAs businesses in PRDA-related work.~~

~~The (b) A PRDA should not replace existing standard acquisition procedures where a when the requirement can be sufficiently clearly defined for solicitation under standard advertised or negotiated acquisition procedures. Similarly, it . It also should not inhibit or curtail the discourage submission of unsolicited proposals. However, If a proposer submits a proposal which is submitted as though it were as an unsolicited proposal but is in fact germane to an existing PRDA shall be treated as though submitted in response to the topic falls within the scope of an active PRDA, DOE will treat the announcement or returned without action proposal as if submitted under the PRDA or return it to the proposer, at the proposer's proposer's option. Further, the A PRDA is must not to be used in a competitive situations situations where it is appropriate to DOE should instead negotiate a study contract to obtain analysis and recommendations to be incorporated in the subsequent for a later request for proposals.~~

Subpart 917.74— _ Acquisition, Use, and Disposal of Real Estate

Source: 61 FR 41707, Aug. 9, 1996, unless otherwise noted.

917.7401 General.

~~The acquisition of real estate requires the involvement of A DOE Certified Realty Specialist must be involved in any acquisition of real estate, as specified at required by 917.7402. Special eircumstances and situations may arise under cost-type contracts when, in~~

~~the performance of the contract or subcontract, the performer shall be required, or otherwise find it necessary, to must acquire real estate or interests therein by in real estate to perform the contract or subcontract. These acquisitions may include:~~

~~(a) Purchase, on DOE's DOE's behalf or in its own the performer's name, with title eventually vesting in the Government.~~

~~(b) Lease for which agreements where DOE will reimburse reimburses the contractor for the pre-approved lease costs incurred under the lease.~~

~~(a) Acquisition of temporary interest through easement, license or permit, and DOE funds the cost of the temporary interest.~~

~~(c) Temporary interests—such as easements, licenses, or permits—that DOE funds.~~

917.7402 Policy.

~~It is the policy of the Department of Energy that, when real estate acquisitions are made, DOE applies the following policies and procedures shall be applied to such acquisitions—when acquiring real estate:~~

~~(a) Real estate acquisitions shall must be mission essential; effectively, economically, and efficiently managed and utilized used; and disposed of promptly, when no no longer needed;~~

~~(b) Acquisitions shall must be justified, with documentation which describes describing the need for the acquisitions, general requirements, cost, acquisition option considerations options with the best acquisition recommended method to be used, site investigation reports, the recommended site recommended for selection, property appraisal reports, and include the review and approval by the applicable DOE Certified Realty Specialist in accordance with DOE Order 430.1C, or its successor version; and.~~

~~Acquisition by (c) For lease acquisitions, in addition to the requirements in paragraphs (a) and (b) of this section:~~

~~Shall not exceed a one year term if (1) Leases funded by one-year appropriations must not exceed one year.~~

~~May exceed a one year term, when the lease is (2) Leases for special-purpose space funded by no-year appropriations and may exceed one year if approved by a DOE Certified Realty Specialist.~~

~~Shall~~(3) Leases must contain ~~an appropriate~~ cancellation clause ~~which~~ that limits the ~~Government's~~Government's obligation to no more than ~~the amount of rent to~~owed through the earliest cancellation date plus a reasonable cancellation payment.

~~Shall be consistent~~(4) Leases must comply with Government laws, regulations, and ~~the~~DOE Order 430.1C, or its successor ~~version, applicable to real estate acquisition.~~

(d) Any real property ~~actions require the~~action requires involvement of the applicable DOE Certified Realty Specialist.

917.7403 Contract clause.

~~The~~Include clause at 952.217-70, Acquisition of Real Property, ~~shall be included~~ in contracts (including modifications) where contractor ~~acquisitions~~acquisition of real property ~~are~~is expected to be made.

PART 952 - SOLICITATION PROVISIONS AND CONTRACT CLAUSES

952.217-70 Acquisition of real property.

Insert the following clause when required by 917.7403:

Acquisition of Real Property (~~MAR 2014~~DEVIATION MAY 2026)

(a) ~~Notwithstanding any other provision of the contract, the~~The Contractor will obtain prior approval ~~offrom~~ the Contracting Officer ~~will be obtained when,~~ acquiring or proposing to acquire real property in performance of this contract, ~~the Contractor acquires or proposes to acquire use of real property by:~~

(1) Purchase, either on the ~~Government's~~Government's behalf or in the Contractor's ~~own~~ name, with title eventually vesting in the Government.

(2) Lease ~~for which the Department of Energy will reimburse the incurred,~~ where DOE reimburses the costs as a reimbursable contract cost.

(3) ~~Acquisition of temporary interest through easement, license~~Temporary interests—such as easements, licenses, or permit, and permits—for which the Government ~~fundspays the entire~~full cost of the temporary interest.

(b) ~~Justification of and execution of any~~ The Contractor will justify and execute all real property acquisitions will be in accordance and compliance with directions provided by ~~Contracting Officer~~ according to the ~~Contracting Officer~~ Officer's instructions.

(c) The Contractor will include the substance of this clause, including this paragraph (c), ~~will be included in any subcontract occasioned by this contract~~ under which property described in paragraph (a) of this clause will be acquired.

(End of clause)